

# Guide to Publications & Resources



2000 – 2001

# Table of Contents

Introduction . . . . .	1
GPO Regional Depository Libraries . . . . .	1
Publication and Resource Availability . . . . .	2
Information Resources . . . . .	3
HelpLine . . . . .	3
Internet Site . . . . .	3
Video and Audio Tapes . . . . .	3
Newsclips, Public Comment, and Official Records . . . . .	5
Library Resources . . . . .	7
Training . . . . .	7
Commission Publications . . . . .	8
Guidelines Manuals . . . . .	8
Annual Reports . . . . .	9
Reports to Congress . . . . .	10
Legal Briefs . . . . .	15
Policy Development Team & Working Group Reports . . . . .	17
Staff Discussion Papers – Simplification Project . . . . .	27
Other Reports and Publications . . . . .	29
Commission Data . . . . .	37
Monitoring Datasets . . . . .	37
Historical Datasets . . . . .	45
Special Study Datasets . . . . .	46
Index by Publication Title . . . . .	A-1
Index by Subject . . . . .	B-1

## Introduction

The United States Sentencing Commission, created by the Sentencing Reform Act of 1984, establishes for the federal courts sentencing policies and practices that further the purposes and objectives set forth in the Act. The Commission is specifically directed by the Act (1) to establish a research and development program; (2) to provide a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices; and (3) to serve in a consulting capacity in the development, maintenance, and coordination of sound sentencing practices. The Commission conducts research in support of its mandate, compiles information on data sources and relevant criminal justice studies, and collects data on guidelines application and other federal criminal justice processes to inform the Congress, the criminal justice community, and the public.

### GPO Regional Depository Libraries

Under an agreement with the Government Printing Office, copies of all basic Sentencing Commission publications are made available in hard copy or on microfiche to patrons using the GPO Regional Depository Libraries across the nation.

The location of the nearest Federal Depository Library can be determined in several ways: (1) request a free copy of the Directory of Depository Libraries from the U.S. Government Printing Office, Library Programs Services, Stop: SLLD, Washington, DC 20401; (2) ask your local library for the address of the nearest Federal Depository Library; and (3) use the Internet: [http://www.access.gpo.gov/su\\_docs/locators/findlibs/index.html](http://www.access.gpo.gov/su_docs/locators/findlibs/index.html).

## Publication and Resource Availability

The Commission seeks to carry out its congressional mandates through the most efficient use of government resources and consistent with its agreement with the Administrative Office of the U.S. Courts regarding the confidentiality of certain documents. Public access is available to all items listed in this *Guide to Publications & Resources*. Some may be downloaded from the Commission's web site, some are available on request, others are placed in libraries across the nation, and still others must be viewed on-site. Availability is indicated by the following codes:

USSC OnLine	Available on Commission's Internet site at the address <i>http://www.ussc.gov</i> . See page 3 for details.
SC-Request	On request from the Sentencing Commission while supplies last, then on-site inspection.
SC-Inspect	On-site inspection at the Sentencing Commission.
SC-Loan	From the Sentencing Commission for 24-hour loan.
GPO	From the Government Printing Office for a fee.
RDL	On-site inspection at GPO Regional Depository Libraries. See page 1 for details.
Publisher	From private publishers as indicated.
ICPSR	From the Inter-University Consortium for Political and Social Research, University of Michigan (data only). <i>www.ICPSR.umich.edu/NACJD/archive.html</i>

### Address publication inquiries to:

United States Sentencing Commission  
Office of Publishing and Public Affairs  
One Columbus Circle, N.E.  
Suite 2-500  
Washington, D.C. 20002-8002  
[pubaffairs@ussc.gov](mailto:pubaffairs@ussc.gov)  
Publications Request Line: 202-502-4568

## Information Resources

### HelpLine (202–502–4545)

---

The Commission operates a telephone *HelpLine* to assist judges, probation officers, prosecuting and defense attorneys, law clerks, and congressional staff members with guideline application questions. The *HelpLine* is open to callers Monday through Friday between 8:30 a.m. and 5:00 p.m., EST.

### Internet Site – [www.ussc.gov](http://www.ussc.gov)

---

Visitors to the Commission's web site (*USSC OnLine*) at the address [www.ussc.gov](http://www.ussc.gov) can browse as well as download Commission documents and materials. *USSC OnLine* is organized into nine categories: What's New, General Information, Reports to Congress, Publications, Guidelines Manuals and Amendments, Guideline Training and Education, Federal Sentencing Statistics, Commission Meeting Information, and Hearing Transcripts and Testimony. The web site provides links to other federal judicial agencies, and features information about state sentencing commissions, the Judicial Fellows Program, and Commission employment opportunities.

### Video and Audio Tapes

---

#### Audio and Videotape Sets: Drugs & Violence in America (June 16-18, 1993). *SC-Loan.*

These two collections of ten video and nine audio tapes record the Commission's symposium on Crime and Punishment in the United States. This first symposium, *Drugs & Violence in America*, studied drug abuse and violence from three perspectives: causation, prevention, and treatment. Participants included the Chief Justice of the United States, the Attorney General, members of Congress, state officials, federal and state judges and corrections officials, and law enforcement personnel.

#### Instructional Videotape on Guideline Amendments (November 1, 1993). *SC-Loan.*

This training videotape, developed by the Sentencing Commission, highlights significant new guideline amendments that took effect on November 1, 1993. In the 45-minute presentation, members of the Commission's staff explain the effects of changes to the drug guidelines, the consolidation of numerous guidelines, revisions to the tax guidelines, additions to the retroactivity policy statement, and other amendments.

## **United States Sentencing Commission**

---

### Videotape Set: Corporate Crime in America: Strengthening the 'Good Citizen' Corporation (September 7-8, 1995).

*SC-Loan.*

This collection of ten videotapes records the Commission's second symposium on Crime and Punishment in the United States. This corporate crime symposium focused on changes in corporate and business culture since sentencing guidelines for organizational offenders became effective in 1991. Symposium presentations also addressed topics and policy issues raised in the wake of the guidelines' new emphasis on effective compliance programs.

### Instructional Videotape on Guideline Amendments (December 1995).

*SC-Loan.*

This 35-minute training videotape examines the most important of the 25 amendments to the sentencing guidelines that took effect November 1, 1995. Most of the 1995 guideline amendments were the direct result of congressional directives, instructions, or statutory changes contained in crime legislation enacted in 1994.

### Instructional Videotape on Guideline Amendments (November 1997).

*SC-Loan.*

This 20-minute training videotape examines the most important of the amendments to the sentencing guidelines that took effect November 1, 1997. The majority of the amendments discussed respond to congressional directives, including those that increase penalties for methamphetamine and immigration offenses. Accompanying the video is a written reference guide that provides additional information about all of the new amendments.

### Videotape on Federal Sentencing Guidelines Application (May 19, 1999).

*SC-Loan.*

This video is designed to provide an introduction to guidelines application for those with limited federal sentencing guidelines experience. The video, featuring staff members from the Commission's training and legal staff, was taped at the Eighth Annual National Seminar on the Federal Sentencing Guidelines.

### Videotape: Restitution – Determining Victims and Harms for Restitution in Federal Criminal Cases (July 1999).

*SC-Loan.*

This videotape, presented by representatives of the U.S. Sentencing Commission and the Administrative Office of the U.S. Courts, reviews the Mandatory Victims Restitution Act as well as other federal laws related to restitution. It was designed primarily to assist judges and probation officers step-by-step to determine the amount of restitution owed.

Videotape: Sentencing Guidelines – Departure Analysis (March 1, 2000).  
*SC-Loan.*

This two-hour videotape about departures was broadcast on the Federal Judicial Television Network. Panelists from the Commission’s training and legal staff use various scenarios to illustrate the ways in which departure issues should be handled.

## Newsclips, Public Comment, and Official Records

A collection of guidelines-related news clippings.  
*SC-Inspect.*

Files of public comment from individuals and organizations.  
*SC-Inspect.*

Minutes of Commission meetings.  
(1992-present — *USSC OnLine*; *RDL*; pre-1992 — *SC-Inspect*; *RDL*.)

United States Sentencing Commission Public Hearing Transcripts.  
*SC-Inspect*; *SC-Loan*; *RDL*.

United States Sentencing Commission Public Hearings		
Date	Location	Topic
April 15, 1986	Washington, DC	Offense Seriousness
May 22, 1986	Washington, DC	Prior Criminal Record
June 10, 1986	Washington, DC	Organizational Guidelines
July 15, 1986	Washington, DC	Sentencing Options (no transcript)
September 23, 1986	Washington, DC	Plea Agreements (no transcript)
October 17, 1986	Chicago, IL	Individual Guidelines
October 21, 1986	New York, NY	Individual Guidelines
October 29, 1986	Atlanta, GA	Individual Guidelines
November 5, 1986	Denver, CO	Individual Guidelines
November 18, 1986	San Francisco, CA	Individual Guidelines
December 2-3, 1986	Washington, DC	Individual Guidelines
February 17, 1987	Washington, DC	Capital Punishment

## United States Sentencing Commission

March 11-12, 1987	Washington, DC	Individual Guidelines
March 22, 1988	Washington, DC	Individual Guidelines (no transcript)
October 11, 1988	New York, NY	Organizational Guidelines
December 2, 1988	Pasadena, CA	Organizational Guidelines
April 7, 1989	Washington, DC	Individual Guidelines
February 14, 1990	Washington, DC	Organizational Guidelines
March 15, 1990	Washington, DC	Individual Guidelines
December 13, 1990	Washington, DC	Organizational Guidelines
March 5, 1991	Washington, DC	Individual Guidelines
February 25, 1992	Washington, DC	Individual Guidelines
March 22, 1993	Washington, DC	Individual Guidelines
November 9, 1993	Washington, DC	Cocaine and Sentencing Policy
March 24, 1994	Washington, DC	Individual Guidelines
March 14, 1995	Washington, DC	Individual Guidelines
March 11, 1996	Washington, DC	Individual Guidelines
August 12, 1996	Denver, CO	Guideline Simplification
March 18, 1997	Washington, DC	Individual Guidelines
October 15, 1997	Washington, DC	Definition of Loss
February 10, 1998	Washington, DC	Telemarketing Fraud
March 5, 1998	San Francisco, CA	Theft, Fraud, and Tax Crimes
March 12, 1998	Washington, DC	Individual Guidelines
June 17, 1998	Washington, DC	Individual Guidelines
March 23, 2000	Washington, DC	Individual Guidelines

## Library Resources



*SC-Inspect.*

The Commission library, open to the public by appointment, contains a collection of publications on criminal justice and sentencing-related issues.

## **Training**

---

*USSC OnLine.*

A variety of exercises, visual aids, and other training materials designed by the Commission are available to the public.

***The Drug Conversion Software Program*** helps to determine marijuana equivalencies of various drugs to aid calculation of the base offense level for offenses involving different types of drugs. Once the type of drug, amount, and unit of measurement are entered, the program will compute the marijuana equivalency in kilograms for each type of drug. This program has been revised to incorporate the 1997 amendments related to flunitrazepam and methamphetamine. This program cannot be used for offense conduct involving these two drugs that occurred prior to November 1, 1997.

## Commission Publications

### Guidelines Manuals

---

The ***Guidelines Manual*** (1987-present) contains the official guidelines, policy statements, and commentary issued by the Sentencing Commission. Prior to their implementation on November 1, 1987, the Commission issued two drafts for public comment. Each succeeding edition incorporates amendments generated during the previous amendment cycle.

Preliminary Draft, Sentencing Guidelines (September 1986).  
*SC-Inspect; RDL.*

Revised Draft, Sentencing Guidelines (January 1987).  
*SC-Inspect; RDL.*

Sentencing Guidelines and Policy Statements (Submitted to Congress on April 13, 1987).  
*SC-Inspect; RDL.*

Guidelines Manual (Effective 11/1/87).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 01/15/88).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 06/15/88).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 10/15/88).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 11/01/89).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 11/01/90).  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 11/01/91).  
2 volumes.  
*SC-Inspect; RDL.*

Amendments to the Guidelines Manual Mandated By Public Law 102-141  
(Effective 11/27/91).  
*SC-Request; RDL.*

Guidelines Manual (Amendments effective 11/01/92).  
2 volumes.  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 11/01/93).  
2 volumes.  
*SC-Inspect; RDL.*

Guidelines Manual (Amendments effective 11/01/94).  
2 volumes.  
*USSC OnLine; RDL.*

Guidelines Manual (Amendments effective 11/01/95).  
2 volumes.  
*USSC OnLine; RDL.*

Amendments to the Sentencing Guidelines (Effective 11/01/96).  
*USSC OnLine; RDL.*

Guidelines Manual (Amendments effective 11/01/97).  
2 volumes.  
*USSC OnLine; RDL.*

Guidelines Manual (Amendments effective 11/01/98).  
2 volumes.  
*USSC OnLine; RDL.*

Supplement to the 1998 Guidelines Manual (Amendment effective 05/01/00).  
*USSC OnLine; RDL.*

Guidelines Manual (Amendments effective 11/01/00).  
2 volumes.  
*USSC OnLine; GPO; Publisher (West, Matthew Bender, McGraw-Hill, Aspen Law and Business); RDL.*

---

## Annual Reports

The Commission's ***Annual Report*** has increased in size and coverage since being introduced in 1986. It reports on Commission activities and research data covering the fiscal year ending prior to publication. The *Annual Report* includes a Commission overview, discussion of recent amendments to the sentencing guidelines and current legal issues, and (for the years 1988-1995) extensive data on sentencing guideline application in the form of tables and graphics.

Annual Report (1986 - present).  
*USSC OnLine (1995-present); SC-Request; SC-Inspect; RDL.*

## **United States Sentencing Commission**

---

Sourcebook of Sentencing Statistics (1996-present).  
*USSC OnLine; SC-Request; RDL.*

Beginning in 1996, the descriptive statistics portion of the *Annual Report* was placed in this companion volume. The book contains demographic data on individual defendants, guideline application, organizational sentencing practices, and sentencing appeals. In addition, it provides selected district, circuit, and national sentencing data.

## **Reports to Congress**

---

Supplementary Report on the Initial Sentencing Guidelines and Policy Statements  
(June 18, 1987).  
*SC-Inspect; RDL.*

This report supplements and further explains the sentencing guidelines, policy statements, and related commentary submitted to Congress on April 13, 1987, along with the technical, conforming, and clarifying amendments submitted on May 1, 1987. It also provides a brief historical overview of the Sentencing Reform Act of 1984, a summary of the Commission's guidelines development process, and an analysis of the expected effects of the guidelines and related legislation on federal correctional resource requirements.

Statutory Penalties Project Description and Compilations of Federal Criminal Offenses – Preliminary Report to the Congress (November 1, 1989).  
*SC-Inspect; RDL.*

The Sentencing Commission is charged with reviewing penalty provisions of federal criminal statutes and suggesting appropriate changes. This report is organized into three sections. The first organizes federal statutes into 18 generic crime groups by title and section of the U.S. Code. The second organizes the statutes into 18 generic crime groups according to the maximum penalty contained in each statute. The third organizes all statutes that fall within one of the most frequently prosecuted offense types according to the maximum penalty for the offense.

Supplementary Report to the Congress: Statutory Penalty Review Project  
(February 13, 1991).  
*SC-Inspect; RDL.*

This report identifies four groups of statutory penalties that appear inconsistent with the goals of sentencing reform as identified in the 1984 Act: (1) Offenses in Deprivation of Civil Rights, (2) Assault, (3) The Travel Act, and (4) Involuntary Manslaughter. In general, the report makes recommendations designed to remove various impediments created by statutory maximum penalties.

Special Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System (August 1991).  
*USSC OnLine; SC-Request; Publisher (West); RDL.*

This report responds to a statutory directive that the Commission examine the compatibility of the sentencing guidelines and mandatory minimum penalties, the effect of mandatory minimums on the federal system, and congressional alternatives to mandatory minimums for directing sentencing policy. It includes an historical overview of mandatory minimum penalties in the federal system, a synopsis of the development of guideline sentencing, and a detailed empirical study of mandatory minimums. The study uses monitoring data of the Sentencing Commission as well as data collected for use in the Commission's evaluation study.

Supplementary Report on Sentencing Guidelines for Organizations  
(August 30, 1991).  
*SC-Loan; RDL.*

This report supplements the sentencing guidelines for organizational defendants (Chapter Eight of the *Guidelines Manual*, effective November 1, 1991). It addresses guideline background, structure, underlying rationale, empirical bases, and significant estimated effects. Chapter One discusses Commission procedures in developing the organizational guidelines. Chapter Two addresses the Commission's resolution of major issues. Chapter Three examines the structure of past practice for fines imposed on organizations, the magnitude of average fines imposed, and the probable effect of the guidelines on the level of fines.

The Federal Sentencing Guidelines: A Report on the Operation of the Guidelines System and Short-Term Impacts on Disparity in Sentencing, Use of Incarceration, and Prosecutorial Discretion and Plea Bargaining (December 1991) 2 volumes and Executive Summary.  
*SC-Request; RDL.*

This report fulfills a requirement in the Sentencing Reform Act of 1984 that the Commission study the impact of the guidelines on the criminal justice system four years after their implementation. The study examines the impact of the guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration.

## **United States Sentencing Commission**

---

Study results were based on data obtained from interviews conducted with judges and federal court practitioners as well as data from the Federal Bureau of Prisons, the U.S. Parole Commission, the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, and the Commission's monitoring system.

### Analysis of Sentencing-Related Provisions of S. 2305 and H.R. 3371 Conference Report Crime Bills (Spring 1992). *SC-Request; RDL.*

This report analyzes and compares two crime bills considered during the 102nd Congress: S. 2305, introduced by Senator Thurmond in 1992, and H.R. 3371, a conference bill that passed the House of Representatives in October 1991 but never came to a vote in the Senate. The report includes suggested technical modifications along with general recommendations regarding the proposed legislation.

### Analysis of the Violent Crime Control and Law Enforcement Act of 1994 (H.R. 3355) (February 22 and June 8, 1994). *SC-Request; RDL.*

This two-part report, prepared at the request of the chairmen of two House Judiciary Subcommittees, analyzes and offers recommendations regarding key provisions in the Senate and House versions of the crime bill. It includes analyses of the bill's "three strikes," mandatory minimum "safety valve," and enhanced firearm penalty provisions along with prison impact assessments.

### Report to Congress on the Maximum Utilization of Prison Resources (June 30, 1994). *SC-Request; RDL.*

In response to a directive in the Sentencing Reform Act of 1984, the Sentencing Commission and the Federal Bureau of Prisons jointly prepared this report which examines: (1) the modernization of existing facilities; (2) the use of existing federal and other surplus facilities; and (3) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security. Examining key programs, the report discusses inmate employment, alternatives to incarceration, "boot camps," drug treatment, family issues, and literacy and education.

### Special Report to the Congress: Cocaine and Federal Sentencing Policy (February 1995). *USSC OnLine; SC-Request; RDL.*

This report responds to a statutory directive that the Commission examine federal sentencing policy as it relates to powder and crack cocaine and make recommendations for appropriate changes. The report examines the pharmacology, methods of use, and public

health impact of cocaine; the drug's effects on society; cocaine distribution and marketing; cocaine's relationship to crime; the legislative history of cocaine penalties and constitutional challenges; and data related to federal drug offenders. The study includes a thorough review of available research, an analysis of cocaine sentences imposed under the sentencing guidelines, and recommendations that the Commission and the Congress make appropriate adjustments to the guidelines and the underlying statutes.

Report to the Congress: Adequacy of Penalties for the Intentional Exposure of Others, through Sexual Activity, to the Human Immunodeficiency Virus  
(March 1995).  
*USSC OnLine; RDL.*

In response to a statutory directive, the Commission reported on whether revisions to the sentencing guidelines were needed to accommodate offenses involving willful exposure to HIV. The report examines (1) the operation of the guidelines given the absence of a specific federal statute punishing the intentional transmission of HIV; (2) cases sentenced in fiscal year 1993 to determine the frequency with which HIV exposure was an issue at sentencing; and (3) pertinent case law.

Report to the Congress: Adequacy of Penalties for Fraud Offenses Involving Elderly Victims  
(March 1995).  
*USSC OnLine; RDL.*

This report responds to a congressional directive to review the adequacy of victim-related guideline adjustments for fraud offenses against older victims. The report includes (1) an overview of the legislative history leading to the statutory directive; (2) a discussion of the operation of the relevant sentencing guidelines and policy statements; (3) an examination of case law; and (4) an empirical analysis of relevant sentencing data.

Report to the Congress: Analysis of Penalties for Federal Rape Cases  
(March 1995).  
*USSC OnLine; RDL.*

Responding to a statutory directive, this report (1) compares federal sentences for cases in which the rape victim is known to the defendant with cases in which the victim is not known; (2) compares federal sentences for cases involving offenses occurring on federal territory with sentences in surrounding states; and (3) analyzes the effect of rape sentences on populations residing in federal territory. The report discusses relevant sentencing guidelines, compares federal and state penalties for sexual assault, and analyzes Sentencing Commission sexual abuse data.

Analysis of the Sentencing-Related Provisions of the Senate Committee Print of the Immigration Reform Act of 1995 (Winter 1996).  
*SC-Request; RDL.*

## **United States Sentencing Commission**

---

This report analyzes the principal criminal penalty provisions of the Senate Committee Print of the Immigration Reform Act of 1995. The analysis was prepared in response to a January 24, 1996, request from Senator Edward M. Kennedy, the ranking minority member of the Senate Immigration Subcommittee. The report includes recommendations for changes to the bill to more fully achieve the goals of the Sentencing Reform Act of 1984.

Report to the Congress: Sex Offenses Against Children (June 1996).  
*USSC OnLine; RDL.*

This report analyzes all 1994 and 1995 cases involving sexual abuse, child pornography, or the promotion of illegal sexual contact. The report responds to a congressional directive in the Sex Crimes Against Children Prevention Act of 1995. Pertinent statutory provisions are analyzed and recommendations are presented.

Report to the Congress: Adequacy of Federal Sentencing Guideline Penalties for Computer Fraud and Vandalism Offenses (June 1996).  
*USSC OnLine; RDL.*

This report responds to the Antiterrorism and Effective Death Penalty Act of 1996's directive to review the deterrent effect of existing guidelines as they apply to various computer crimes. The Commission reviewed its data on guideline convictions under the pertinent statute, conducted a search to determine whether any recidivism had occurred, developed a profile of a "typical offender," and conducted a literature review of deterrence studies of "white collar" crime.

Special Report to Congress: Cocaine and Federal Sentencing Policy (April 1997).  
*USSC OnLine; RDL.*

This report contains Sentencing Commission recommendations regarding penalties for powder and crack cocaine. The report, made pursuant to a congressional directive, recommends that the current penalty differential for federal powder and crack cases be reduced by changing quantity levels that trigger mandatory minimum penalties for both powder and crack. Recommended are a range of possible options to adjust both powder and crack penalties. Appended to this report is Vice Chairman Gelacak's Concurring Opinion.

Report to the Congress: Sentencing Policy for Money Laundering Offenses, Including Comments on Department of Justice Report (September 18, 1997).  
*USSC OnLine; RDL.*

This report responds to a congressional directive to comment on the Department of Justice's report on federal prosecutorial charging and plea practices affecting money laundering. In the report, the Commission reported that the broad and inconsistent use of money laundering penalties, coupled with an inflexible, arbitrarily determined guideline structure, is resulting in substantial unwarranted disparity and disproportionality.



Report to the Congress: Telemarketing Fraud Offenses–Explanation of Recent Guideline Amendments (October 1998).  
*USSC OnLine; RDL.*

This report was submitted in response to the Telemarketing Fraud Prevention Act of 1998. It includes an explanation of actions taken by the Commission to promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses relating to the conduct of telemarketing. It also estimates the impact of the amendments described in the report.

## **Legal Briefs**

---

Brief for the United States Sentencing Commission as *amicus curiae* in *Mistretta v. United States*, 488 U.S. 361 (1989).  
*SC-Inspect; RDL.*

*Mistretta* involved four separation of powers issues as well as a contention that Congress had excessively delegated its legislative authority. In its *amicus* brief, the Sentencing Commission principally argued that (1) the structure of the Commission was not violative of separation of powers provisions and did not involve any congressional self-aggrandizement; (2) neither the executive nor the judicial branches are disrupted by the delegation of the Commission to the judiciary; (3) the mixed composition of the Commission does not violate separation of powers because judges may take part in extra-judicial tasks, and the prohibition against sharing the “judicial power of the United States” with the executive branch is inapplicable; and (4) removal powers granted to the President in no way threaten the tenure or salary of the judges.

Brief for the United States Sentencing Commission as *amicus curiae* in *United States v. Lopez*, 938 F.2d 1293 (D.C. Cir. 1991).  
*SC-Inspect; RDL.*

In this brief, submitted at the request of the court, the Commission contended that (1) a court could not set aside a sentencing guideline or policy statement for failure of the Commission to articulate adequately the basis and purpose of the provision, and (2) the Commission had provided an appropriate statement of reasons for its guidelines and policy statements. The Commission illustrated the reasons why the Administrative Procedures Act (APA) did not apply to the Sentencing Commission, with the exception of two individual provisions found within 5 U.S.C. § 553(c) dealing with publication and public hearing procedures. The Commission asserted that it need only support its guideline decisions with a “report [to Congress] stating the reasons for the Commission’s recommendations.”

Brief for the United States Sentencing Commission as *amicus curiae* in *United States v. Bell*, 991 F.2d 1445 (8th Cir. 1993).  
*SC-Inspect; RDL.*

## **United States Sentencing Commission**

---

The United States Sentencing Commission filed a brief of *amicus curiae* in support of the Government's position as appellant that the *ex post facto* clause is not applicable to sentencing guideline amendments. The Commission's brief contended that the guidelines themselves are not laws and therefore not subject to *ex post facto* restrictions because (1) the procedure through which guideline amendments are promulgated involves no legislative action; (2) judges retain discretion to sentence outside the guidelines as a result of a flexible departure standard; and (3) the guidelines do not reclassify substantive crimes but are based on statutory offense categories.

Memorandum of Law by the United States Sentencing Commission as *amicus curiae* in *United States v. McLellan*, Criminal Action No. 1:91-CR-326A-01 (JOF) (N.D.GA. 1995).  
*SC-Inspect.*

In this case, the defendant moved to invalidate the U.S. Sentencing Commission and the sentencing guidelines on separation of powers grounds. The defendant contended that the Supreme Court decision in *Mistretta v. U.S.* resolved only the facial validity of the Sentencing Reform Act and that, irrespective of the Court's decision, the Commission's actions in implementing the Act had violated the separation of powers doctrine. In its memorandum of law as *amicus curiae*, the Commission argued that in resolving conflicts of sentencing law among the federal circuits, advising Congress on sentencing issues, and conducting studies of sentencing issues, it was fulfilling duties mandated by the Act. These duties were all found to be proper for the Commission in *Mistretta*, and thus the Commission was in no way stepping outside the bounds of its constitutional role in fulfilling them.

## **Policy Development Team & Working Group Reports**

---

Inter-disciplinary panels of Commission staff ("working groups" and policy development teams) produce reports and documents on specific topic areas identified by commissioners. The groups study specific guideline issues, identify areas of concern, and make recommendations to the Commission.

Criminal Livelihood Working Group Report (March 23, 1988).  
*SC-Loan; RDL.*

This report examines various issues relevant to the criminal livelihood guideline (§4B1.3), including (1) difficulties in applying the guideline, (2) the guideline's impact on lower-income petty offenders, and (3) the point at which the guideline is calculated (*i.e.*, before or after calculation of Acceptance of Responsibility). The working group analyzed legislative history, constitutional issues, monitoring data, and possible modifications to the guideline.

Career Offender Guidelines Working Group Report (March 25, 1988).  
*SC-Loan; RDL.*

This report examined career offender guideline questions (§§4B1.1 and 4B1.2) arising from hotline calls and a training survey. The working group also examined a Seventh Circuit case that raised issues of “ambiguity” in the guidelines. The working group report includes a review of 18 U.S.C. § 924(e) and the career offender guideline, examining the development, the legislative history, and the operation of the statute and the guideline. The report examines specific career offender guideline issues and proposals.

Bank Robbery Working Group Report (March 29, 1989).

*SC-Loan; RDL.*

This working group report includes (1) an analysis of preguidelines sentencing practice for bank robbery offenses drawn from the 1985 augmented FPSSIS data, designed to permit Commission comparison between past practice and the guidelines; (2) an analysis of time served by offenders in cases involving unarmed robbery of one bank in which no deaths, injuries, or abductions occurred and the offender had no prior adult convictions and did not warrant consideration as a minor participant or a leader; and (3) an analysis of key offense and offender characteristics of 146 bank robbery cases sentenced under the guidelines.

Drugs, Firearms, and Violent Offenses Working Group Report (December 18, 1989).

*SC-Loan; RDL.*

The working group, in assessing areas for proposed amendments, consulted current and pending legislation, hotline calls, Commission sentencing data, case law, public comment, Department of Justice proposals, and information from the Bureau of Alcohol, Tobacco, and Firearms. The report recommends restructuring the arson guideline (§2K1.4) to raise the base offense level and to address the more mainstream arson cases. In addition, it recommends clarification of the application notes for drug guidelines 2D1.1 and 2D1.2. Following its review of the firearms guidelines, the group proposed amending guideline 2K2.1 to cover violations of 18 U.S.C. § 924(e). The group also proposed changes to the murder-for-hire guideline for conspiracy or solicitation to murder and recommended restructuring the guideline covering assault with intent to commit murder (§2A.1.1).

Revocation Working Group Report (December 18, 1989).

*SC-Loan; RDL.*

This working group’s goal was the development of guidelines for violations of probation and supervised release that would replace the policy statements in Chapter Seven of the *Guidelines Manual*. The group reviewed existing policy statements, relevant literature, legislative history, statistical data, recommendations from the Department of Justice, and an internal draft of proposed guidelines for violation and revocation procedures.

Criminal History Working Group Report (December 20, 1989).

*SC-Loan; RDL.*

## **United States Sentencing Commission**

---

This working group analyzed issues regarding the addition of a Criminal History Category VII to the sentencing table and reviewed data on the distribution of criminal history points and departures due to adequacy of criminal history. The group also analyzed issues regarding the assignment of criminal history points to uncounseled misdemeanor convictions and reviewed practices and policies with respect to counting such convictions for criminal history purposes.

### Role in the Offense Working Group Report (January 4, 1990).

*SC-Loan; RDL.*

The working group evaluated the operation of the role in the offense guidelines: guideline 3B1.1 (Aggravating Role – particularly the organizer-leader-supervisor-manager distinction and the “otherwise extensive” provision) and guideline 3B1.2 (Mitigating Role – particularly the treatment of relative culpability of defendants). The working group analyzed potential problems in the application of these guidelines by examining preguidelines cases, Commission data, case files, appellate case law, and departure cases.

### Working Group Report on Child Pornography, Obscenity Offenses, and Hate Crimes (January 16, 1990).

*SC-Loan; RDL.*

The working group reviewed a broad range of resources in considering potential amendments to the guidelines for offenses involving prostitution, sexual exploitation of minors, obscenity, and civil rights. The report contains a collection of relevant statutes, discusses the legislative history, digests data from Commission case files, and discusses court decisions. The report also reviews guideline application issues originating from hotline calls and public comment on proposed guideline amendments.

### Aliens Working Group Report (October 18, 1990).

*SC-Loan; RDL.*

The working group studied guidelines pertaining to violations of immigration, naturalization, and passport laws (§§2L1.1, 2L2.1, and 2L2.3). The group found that the specific offense characteristic in each of these guidelines, based on whether the defendant previously had been convicted of the same or a similar offense, was not an adequate measure of the scope of the offense. The working group considered public comment and studied pertinent case files to construct an alternative set of specific offense characteristics for those guidelines. Based on its case analysis, the working group suggested that a more direct measure of the scope of the offense would be tables listing offense levels based on the number of individuals or documents involved in the offense.

### Drug Working Group Report – Listed Chemicals (November 13, 1990).

*SC-Loan; RDL.*

The working group examined the Chemical Diversion Trafficking Act,

21 U.S.C. § 841(d), to develop recommendations for guideline sanctions against conduct proscribed by the Act. The group summarized the legislative history of the Act and its primary listed chemical offenses, profiled offenders and cases brought under the Act, reviewed monitoring data, summarized appellate case law, and proposed two guideline amendment options.

Working Group Report on Category 0/VII (November 20, 1990).  
*SC-Loan; RDL.*

The working group examined the feasibility and consequences of expanding the sentencing table to include a Criminal History Category VII and creating a new category for “first offender.” By analyzing Commission data and case law, the group profiled defendants who might fall under Criminal History Categories 0 and VII. The group explored theoretical and practical considerations involved in defining “first offender” and surveyed the potential impact of various options.

Bank Robbery Working Group Report (December 10, 1990).  
*SC-Loan; RDL.*

To inform the Commission about potential amendment options, the working group explored three issues of concern about the way in which offenders are sentenced pursuant to the robbery guideline: (1) Are offense levels for unarmed bank robbery too low? (2) Are the enhancements for weapon use sufficient? (3) Should an enhancement be provided for bank robberies committed but that do not lead to a conviction? The group studied Commission data, hotline reports, appellate court decisions, nationwide data provided by the FBI, and input from practitioners.

Firearms and Explosive Materials Working Group Report (December 11, 1990).  
*SC-Loan; RDL.*

The working group studied the firearms and explosives guidelines by reviewing Commission data, case files, and appellate decisions and by soliciting input from appropriate agencies and interested parties. The group proposed combining a number of firearms and explosives guidelines to eliminate duplication and confusion in application and to incorporate additional specific offense characteristics.

Acceptance of Responsibility Working Group Report (October 16, 1991).  
*SC-Loan; RDL.*

This working group undertook a broad examination of the acceptance of responsibility guideline (§3E1.1) in response to a request from the Criminal Law Committee of the Judicial Conference for additional mitigation at higher offense levels. The group focused specifically on (1) whether the guideline was being interpreted and applied consistently across the country; (2) whether the guideline provided an appropriate offense level reduction; (3) whether the guideline needed to differentiate more precisely among

## United States Sentencing Commission

---

defendants; and (4) whether factors that the guideline did not consider would help a court determine when the reduction was warranted.

Criminal History Working Group Report: Category 0, Category VII, Career Offender (October 17, 1991).  
*SC-Loan; RDL.*

This working group examined (1) the possible modification of criminal history categories by adding a Category 0 and/or Category VII and (2) factors to narrow or expand the applicability of the career offender guideline. The group explored various methods of defining a “first offender” (a possible criterion for Criminal History Category 0). The group also examined the data to develop the criminal history point boundary for Category VI to define eligibility for a new Category VII. A supplemental report was submitted February 21, 1992.

Preliminary Report to the Commission: Staff Working Group on Alternatives (October 23, 1991).  
*SC-Loan; RDL.*

In 1990, the Judicial Conference of the United States and the Alternatives to Imprisonment Project chaired by Commissioner Helen G. Corrothers submitted reports to the Commission recommending an increase in the number of existing intermediate punishments, an expansion of the pool of eligible defendants, and a general increase in district courts’ flexibility in sentencing certain offenders. This working group undertook a coordinated assessment of the two reports and examined written comments and public hearing testimony about alternatives.

Child Sex Offense Working Group Report (December 1991).  
*SC-Loan; RDL.*

Congress directed the Sentencing Commission to amend guidelines for offenses involving sexual crimes against children if the Commission determined that current penalties were inadequate. In response, the child sex offense working group conducted a study of sentences for sexual abuse, kidnapping, and pornography cases.

Drug Working Group Report (March 27, 1992).  
*SC-Loan; RDL.*

The working group reviewed a broad range of information as it considered possible amendments to guidelines for relevant conduct, mitigating role in the offense, drug trafficking offenses, and renting or managing a drug establishment. To assist the Commission’s consideration of these issues, the working group reviewed approximately 1,500 case files to profile sentencing drug defendants and identify offense characteristics that relate to mitigating role adjustments. The group analyzed the impact of prosecutorial selection of statutes that contain a lesser statutory maximum. As part of this analysis, the

group profiled so-called “courier” and “mule” cases to examine the relationship between this offense behavior and the application of the mitigating role adjustment. The data were organized to permit modeling of the impact of potential amendment options.

Money Laundering Working Group Report (October 14, 1992).  
*SC-Loan; RDL.*

This report addresses whether the money laundering guidelines appropriately reflect offense seriousness. The working group held meetings with practitioners and analyzed computer data drawn from actual case files. Evidence indicated that offense levels for money laundering counts varied significantly from offense levels for the underlying counts (*e.g.*, drug trafficking or a fraudulent scheme). A high percentage of offenders convicted of money laundering also were involved in the underlying crime, which suggests that money laundering was incidental to the underlying conduct. However, the guideline offense level for money laundering in drug cases exceeded that for the underlying conduct 52.5 percent of the time and 96 percent of the time in non-drug cases. The group analyzed ways of aligning these levels.

Violent Crimes/Firearms/Gangs Working Group Report (October 14, 1992).  
*SC-Loan; RDL.*

This working group examined (1) whether or not present guideline penalties for these offense types were adequate and (2) specific application problems associated with these guidelines. The purpose of the gang study was to examine issues pertinent to incorporating gang membership and gang crime as sentencing factors.

The group conducted a systematic study of the offenses against the person and the revised firearm guidelines. The study included computer analyses of Commission data, an analysis of published court opinions dealing with the pertinent guidelines, an examination of emerging questions and problems directed to the Commission, and input from practitioners. The gang study included a literature review, a survey of state sentencing commissions, and a review of pertinent case law. The group issued an addendum to this report March 30, 1993.

Report of the Drugs/Role/Harmonization Working Group (November 10, 1992).  
*SC-Loan; RDL.*

The primary focus of this working group was the current quantity-driven drug guideline. Its principal task was to explore alternative means of distinguishing drug offenses and offenders on bases other than drug quantity. The group also reviewed relevant case law to identify additional potential areas of interest concerning the drug and role guidelines, with the primary objective of identifying circuit court conflicts about guideline application.

The group examined the language and legislative history of the 1986 Anti-Drug Abuse Act, conducted empirical research using Commission data, examined hotline information,

## **United States Sentencing Commission**

---

and reviewed state sentencing guidelines for drug trafficking offenders. The group issued on April 1, 1993, an addendum reporting on its case review project.

### Juvenile Offenders Working Group Report (November 10, 1992). *SC-Request; RDL.*

The impetus for this working group was a statutory directive requiring the Commission to “study the feasibility of developing guidelines for the disposition of juvenile delinquents.” The report summarizes the group’s progress to date following its analysis of available data. The report references a Supreme Court case, *United States v. R.L.C.*, which held that the maximum sentence for juvenile delinquents is set by the guidelines. The group suggests an amendment incorporating this holding and deleting a current policy statement, 5H1.1 – age, which states that the guidelines do not apply to “a person sentenced as a juvenile delinquent under the provisions of 18 U.S.C. § 5037.”

### White Collar Crime Working Group Report (April 1993). *SC-Loan; RDL.*

This working group considered issues relating to guidelines governing various economic offenses, including property, fraud, antitrust, and tax offenses. The report focuses primarily on theft and fraud issues on the one hand and tax issues on the other. With respect to theft and fraud, the report discusses reliance on loss as a primary determinant of offense severity, the guideline definition of loss, calibration of the loss tables, consolidation of the theft and fraud guidelines, enhancement for more than minimal planning, and the abuse of trust adjustment. With respect to tax, the major areas of inquiry cover the impact on tax offenses of the expanded availability of non-prison sentences, simplification of the tax guidelines, and tax offenses involving illegally derived income.

### Computer Fraud Working Group Report (September 8, 1993). *SC-Loan; RDL.*

The Computer Fraud Working Group studied the effectiveness of the fraud guideline and related guidelines on computer fraud offenses. To accomplish this, the working group met with interested parties, conducted an empirical analysis of cases sentenced under 18 U.S.C. § 1030, and reviewed public comment, legislative history, case law, relevant literature, and hotline calls. Based on this review, the group recommended that the Commission not adopt a new guideline for computer offenses, but instead revise the loss commentary in the fraud guideline and explore whether other guidelines might be more appropriate for certain offenses. The report also includes suggestions regarding amendments to fraud guideline commentary. A working group report summary is also available from the Commission.



Public Corruption Working Group Report (September 8, 1993).  
*SC-Loan; RDL.*

The Public Corruption Working Group was charged with examining sentencing practices under the public corruption guidelines. The review, which included an examination of approximately 300 public corruption cases, identified a number of topics involving application of the public corruption guidelines that warranted examination: (1) a structural issue that involved the scope of application of the guidelines; (2) issues involving application of guideline adjustments in complex cases; and (3) an issue concerning the appropriateness of departures on grounds of collateral consequences.

Food and Drug Working Group Preliminary Report (February 1994).  
*SC-Loan; RDL.*

The Food and Drug Working Group was established to conduct a two-year assessment of the feasibility of formulating organizational guidelines for offenses involving food, drugs, and agricultural products (§2N2.1). The group's preliminary report includes (1) an overview of the pertinent guideline and the most commonly prosecuted offenses sentenced under it; (2) an analysis of food and drug cases involving individuals sentenced under guideline 2N2.1 during fiscal years 1991 and 1992; (3) a description of food and drug cases involving organizational defendants sentenced under preguidelines law; and (4) an analysis of significant application issues.

Money Laundering Working Group Report (February 28, 1995).  
*USSC OnLine; RDL.*

This follow-up to an October 1992 report reviews the history of the money laundering guidelines, summarizes the earlier report, and updates case law and other relevant information available since the 1992 report. A working group report summary is also available from the Commission.

Food and Drug Working Group Report (February 1995).  
*USSC OnLine; RDL.*

This update to a February 1994 report includes an overview of guideline 2N2.1 and the most commonly prosecuted crimes sentenced under it, provides a description and analysis of food and drug cases involving individuals sentenced under guideline 2N2.1 in fiscal years 1991-93, and describes food and drug cases involving organizational defendants sentenced under preguidelines law.

## **United States Sentencing Commission**

---

### Federal Court Practices: Sentence Reductions Based on Defendants' Substantial Assistance to the Government (May 1997).

*SC-Loan; SC-Inspect.*

This working group report studies the policies and practices associated with the application of the substantial assistance policy statement. Topics include (1) substantial assistance across districts; (2) caseload composition and trial rates; (3) the characteristics of defendants who cooperate with authorities and the type of assistance offered; (4) sentences for codefendants; and (5) the prosecutorial and judicial roles.

### Loss Issues Working Paper (October 14, 1997).

*SC-Loan; RDL.*

This memorandum discusses issues raised about the definition of loss in the case law, in training, and on the Commission's HelpLine, and presents some general options to address those issues to achieve greater sentencing uniformity and predictability. The paper also incorporates input received from various advisory groups.

### Manslaughter Working Group Report (December 15, 1997).

*USSC OnLine; RDL.*

This report studies the voluntary and involuntary manslaughter guidelines to determine whether the current penalties are appropriate relative to other violent offenses. The working group examined three years of Commission sentencing data (FY 94-96), reviewed legal and social science literature on manslaughter, compared federal sentencing standards with the practices of selected states, and conducted a public hearing at which experts on manslaughter testified. The report presents options to amend the guidelines for Commission consideration.

### Telemarketing Fraud Working Group Report (January 1998).

*USSC OnLine; SC-Request; RDL.*

This report studies telemarketing fraud offenses in conjunction with the Commission's multi-year comprehensive assessment of the fraud and related guidelines. The report provides a legislative history of the relevant statutes and guidelines, assesses guideline application issues affected by telemarketing fraud enhancements, and examines the scope and nature of the telemarketing fraud issue.

### A Field Test of Proposed Revisions to the Definition of Loss in the Theft and Fraud Guidelines: A Report to the Commission (October 20, 1998).

*USSC OnLine; RDL.*

This report presents the results of a survey of 22 federal judges and 21 probation officers about the definition of loss in the theft and fraud guidelines. In this field test, each judge was given the proposed definition and was asked to apply it, with the assistance of a

probation officer, to theft and fraud cases. Judges completed survey instruments on 121 randomly selected and 107 participant-selected cases.

No Electronic Theft Act Policy Development Team Report (February 1999).  
*SC-Loan; USSC OnLine; RDL.*

This report analyzes the legislative history of the No Electronic Theft Act, reviews the history of sentencing guideline 2B5.3 (Criminal Infringement of Copyright or Trademark), reviews public comment on electronic theft, presents an empirical analysis of cases sentenced under §2B5.3, examines the literature on the topic, and discusses relevant state law and federal regulations.

Methamphetamine Final Report (November 1999).  
*USSC OnLine; RDL.*

This is the final report of the Commission's Methamphetamine Policy Team regarding the implementation of the Methamphetamine Trafficking Penalty Enhancement Act of 1998. The report examines the methamphetamine problem in the United States, summarizes the statutory and sentencing guideline history for federal methamphetamine offenses, discusses characteristics of methamphetamine offenders, and outlines policy options for responding to the act.

Identity Theft Final Report (December 15, 1999).  
*USSC OnLine; RDL.*

This report details the legislative history of the Identity Theft and Assumption Deterrence Act of 1998, analyzes the key provisions of the statute, and assesses its impact upon existing sentencing guidelines. The report also presents analyses of Commission data and assesses preliminary policy options for Commission consideration.

Sentencing for the Possession or Use of Firearms During a Crime (January 6, 2000).  
*USSC OnLine; RDL.*

This report examines the guidelines' approach to sentencing for possession or use of a firearm during a crime of violence or drug trafficking offense. The report provides an introduction to 18 U.S.C. § 924(c) and recent Supreme Court decisions and legislation relevant to the statute.

Cellular Telephone Cloning Final Report (January 25, 2000).  
*USSC OnLine; RDL.*

This report, produced by the Commission's Economic Crimes Policy Team, addresses the development of policy options for implementing the directives contained in the Wireless

## **United States Sentencing Commission**

---

Telephone Protection Act. The report also presents background on the issue and the teams's analysis and findings.

Sentencing Federal Sexual Offenders: Protection of Children from Sexual Predators Act of 1998  
(February 17, 2000).  
*USSC OnLine; RDL.*

This report was produced to assist the Commission in developing possible responses to the Protection of Children from Sexual Predators Act of 1998. This act contains directives to the Commission to review relevant guidelines and provide appropriate enhancements while ensuring reasonable consistency among the guidelines and avoiding duplicative punishment.

## **Staff Discussion Papers – Simplification Project**

---

The Sentencing Reform Act (November 1996).  
*USSC OnLine; RDL.*

This staff discussion paper provides an overview of the principal purposes and features of the Sentencing Reform Act of 1984 (SRA). The principal SRA provisions which shape and constrain drafting of the sentencing guidelines are described. The paper also generally describes Congress's direction to the Commission to consider a variety of identified offense and offender characteristics and to achieve desired levels of severity for particular categories of defendants. Finally, the paper enumerates congressional directives enacted subsequent to the SRA that further limit Commission amendment discretion.

Relevant Conduct (November 1996).  
*USSC OnLine; RDL.*

This staff discussion paper examines the tension between real-offense and charge-offense sentencing and the Commission's response to it: the relevant conduct guideline. The paper discusses the federal criminal code and the ways in which the code and the Sentencing Reform Act eliminate the possibility of a pure offense of conviction sentencing system. The paper reviews the history of the relevant conduct guideline, presents criticisms of the guideline, and discusses state counterparts. Finally, the paper outlines broad options to address these issues.

Level of Detail in Chapter Two (November 1996).  
*USSC OnLine; RDL.*

This paper focuses on the 151 offense guidelines in Chapter Two of the *Guidelines Manual*. The paper discusses the choices the Commission made about (1) the factors important to sentencing; (2) the assignment of a specific weight to a base offense level or

a specific offense characteristic (SOC); (3) cross reference determinations; and (4) departure decisions. Data is presented on the frequency of guideline use, specific offense characteristics, cross references, and adjustments. The paper concludes with a list of options for modifying the level of detail in Chapter Two.

Chapter Three Adjustments (November 1996).

*USSC OnLine; RDL.*

This staff discussion paper examines the major policy issues in Chapter Three of the *Guidelines Manual* (except for “Part D - Multiple Counts” which is the topic of a separate report) by reviewing data, case law, hotline calls, training experiences, and pertinent literature. The aim of this paper is to explain (1) why Chapter Three includes certain adjustments; (2) how the adjustments are working; (3) criticisms of these adjustments; and (4) some options that would simplify or improve the present structure and operation of Chapter Three guidelines.

Criminal History (November 1996).

*USSC OnLine; RDL.*

This staff discussion paper has three components: (1) policy issues regarding the ability of the current criminal history score to adequately distinguish between offenders; (2) an outline of several issues that create guideline application problems; and (3) alternative criminal history measures that may improve the current guidelines.

Departures and Offender Characteristics (November 1996).

*USSC OnLine; RDL.*

This paper analyzes departures and offender characteristics under the guidelines and includes a discussion of pertinent sections of the applicable statutory directives and their legislative history, an examination of the way in which the Commission executed those directives, and a review of empirical information on current departure practice and appellate review standards. The report also contains summaries of criticisms of the manner in which departures and offender characteristics are handled under the guidelines, and a description of the way some state systems treat departures and offender characteristics. Finally, the paper offers options for change that could simplify and improve the operation of guidelines relevant to these issues.

Multiple Counts (November 1996).

*USSC OnLine; RDL.*

This staff discussion paper reviews the guidelines’ multiple count rules (Chapter Three, Part D). These rules were developed to provide appropriate incremental punishment for defendants convicted of multiple offenses. The paper presents information from a year’s worth of hotline calls that dealt with multiple count application. Information on judicial interpretation was obtained from appellate case law on multiple count issues.

## **United States Sentencing Commission**

---

### Sentencing Options Under the Guidelines (November 1996).

*USSC OnLine; RDL.*

The Sentencing Options Working Group examined the various alternatives to imprisonment that are possible under the guidelines. This paper analyzes (1) statutory directives regarding alternatives; (2) the ways in which the guidelines define and allocate sentencing options; (3) criticisms of the existing approach; (4) guideline complexity; (5) judicial use of existing options; (6) factors that account for use or non-use of alternatives; and (7) evaluations of the effectiveness of particular alternatives.

## **Other Reports and Publications**

---

### Dissenting View of Paul H. Robinson on the Promulgation of Sentencing Guidelines by the United States Sentencing Commission (May 1, 1987).

*SC-Inspect; RDL.*

This document contains Commissioner Paul Robinson's dissenting viewpoint on the Commission's promulgation of its initial set of sentencing guidelines.

### Preliminary Observations of the Commission on Commissioner Robinson's Dissent (May 1, 1987).

*SC-Inspect; RDL.*

In this document, the six commissioners who voted affirmatively to promulgate the initial guidelines issued preliminary observations on Commissioner Robinson's dissent. Supplemental statements were issued by Commissioners Ilene H. Nagel, Michael K. Block, and George E. MacKinnon.

### Discussion Materials on Organizational Sanctions (July 1988).

*SC-Inspect; RDL.*

This volume contains discussion materials distributed by the Commission to encourage public analysis and comment on the development of sentencing standards for organizations convicted of federal crimes. These materials include a discussion draft of sentencing guidelines and policy statements for organizations, a draft proposal on standards for organizational probation, a report on sentencing of organizations in the federal courts (1984-1987), and a staff working paper on criminal sentencing policy for organizations.

Sentencing Guidelines for Organizational Defendants – Preliminary Draft

(November 1, 1989).

*SC-Loan; RDL.*

This document presented the Commission’s preliminary proposal on this issue and was published to encourage public comment on the proposal and on any other aspect of the sentencing guidelines, policy statements, and commentary as they applied to the sentencing of organizations.

Public Access to Sentencing Commission Documents and Data, 54 Fed. Reg. 51279 (12/13/89).

*SC-Request; USSC OnLine; RDL.*

This is a policy notice regarding public access to Sentencing Commission documents and data and an agreement between the Administrative Office of the U.S. Courts and the Sentencing Commission concerning the confidentiality of certain sentencing information.

Amendment Highlights (1989-2000).

(Individual years)

*SC-Request; RDL.*

*Amendment Highlights* briefly summarizes the substantive and clarifying amendments to the *Guidelines Manual* submitted to Congress during each amendment cycle.

Selected Guidelines Application Decisions (1989-2000).

(Individual years)

*USSC OnLine; SC-Request; RDL.*

The Commission compiles summaries of selected cases, organized according to pertinent guideline section, involving application of the federal sentencing guidelines or related sentencing issues.

The Federal Offender: A Program of Intermediate Punishments (Alternatives to Imprisonment Project) (December 28, 1990).

*SC-Loan; RDL.*

The primary purposes of this commissioner-led project were to explore community-based alternatives to imprisonment, to make recommendations with regard to increasing the array of sanctions available to the federal courts, and to ascertain the desirability of increasing the pool of offenders eligible for intermediate sanctions. The report presented a package of recommendations for consideration by the Commission.

## United States Sentencing Commission

---

Sentences Imposed Under the Guidelines (October 1, 1990-September 30, 1991).  
*SC-Request; RDL.*

This compilation is a modified version of the *Sentences Imposed Chart*, formerly published by the Statistics Division of the Administrative Office of the U.S. Courts. The Sentencing Commission modified the original report, basing it on the guidelines applied rather than on the statutes of conviction. Data for the set of tables emanate from the 26,813 guideline defendants in the Commission's fiscal year 1991 monitoring files. Factors reported in this volume are those considered by the court in arriving at a final sentencing range.

U.S. Sentencing Commission Selected Reprints, Vol. I (June 1992).  
*SC-Inspect; RDL.*

This volume compiles eight previously published articles on federal sentencing issues written by commissioners and staff. Topics include relevant conduct, plea negotiations, acceptance of responsibility, departures, discretion, and drug trafficking offenses.

Proceedings of the Inaugural Symposium on Crime and Punishment in the United States: Drugs & Violence in America (June 16-18, 1993).  
*SC-Request; RDL.*

This volume contains the proceedings of the Commission's first symposium in a series on Crime and Punishment in the United States. The symposium brought together more than 350 key policymakers to share information and exchange ideas on the topic of drugs and violence. Chief Justice William H. Rehnquist, Attorney General Janet Reno, Senators Edward M. Kennedy and Joseph R. Biden, Jr., and Congresswoman Maxine Waters were among two dozen government officials and experts who addressed the causes, prevention, and treatment of drug abuse and violence. Video and audio tapes of the symposium are available on loan from the Commission.

Plea Negotiations Under the Federal Sentencing Guidelines: An Empirical Examination of the Post-Mistretta Experience (December 1994).  
*SC-Loan.*

This report, authored by U.S. Sentencing Commissioner Ilene H. Nagel and University of Chicago Professor Stephen J. Schulhofer, explores the inter-relationship between the federal sentencing guidelines and plea negotiation practices during the period immediately following the Supreme Court's decision in *Mistretta v. United States*. This report includes an analysis of qualitative data from site visits and an extensive review of sentencing documents in ten selected jurisdictions.



Update on the Activities of the United States Sentencing Commission  
(September 1995).

*USSC OnLine; RDL.*

This compendium contains (1) reports to Congress on penalties for federal rape cases, adequacy of penalties for fraud offenses involving elderly victims, and adequacy of penalties for the intentional exposure of others through sexual activity to HIV; (2) the Commission's majority and minority opinions on the crack and powder cocaine issue; and (3) commissioners' congressional testimony on cocaine penalties.

Proceedings of the Second Symposium on Crime and Punishment in the United States: Corporate Crime in America: Strengthening the "Good Citizen" Corporation (September 7-8, 1995).

*USSC OnLine; SC-Request; RDL.*

This volume contains the proceedings of the Commission's second symposium in a series on crime and punishment. The symposium focused on the ways in which companies, industries, and enforcement officials have responded to (1) the organizational sentencing guidelines' "carrot and stick" incentives and (2) other changes in the enforcement landscape that encourage businesses to develop strong compliance programs and adopt crime-controlling measures. Participants included federal enforcement officials, representatives of corporations, private attorneys, and researchers who focus on business ethics and crime.

A National Sample Survey: Public Opinion on Sentencing Federal Crimes  
(October 1995).

*USSC OnLine; RDL.*

This monograph reports the findings of a national sample survey commissioned by the U.S. Sentencing Commission. Conducted in 1994 through face-to-face interviews with a probability sample of the American populace, the study sought to find out how the American public would sentence persons convicted of crimes under the Federal Criminal Code. This report describes the sentences given, examines the principles used in giving sentences, and compares the sentences to those recommended in the guidelines.

Guideline Departures 1989-2000.

*USSC OnLine; RDL.*

These documents, updated periodically, summarize upward and downward departures approved and disapproved by appellate courts. Tables are presented that list specific departure factors along with the cases in which the factors appear.

U.S. Sentencing Commission Selected Reprints, Vol. II (September 1996).

*SC-Request; RDL.*

## **United States Sentencing Commission**

---

This volume compiles seven previously published articles on federal sentencing issues written by commissioners and staff. Topics include the role of guideline amendments in reducing sentencing disparity, charging and bargaining practices, competing sentencing policies in a “war on drugs” era, and guidelines for organizations.

Just Punishment: Public Perceptions and the Federal Sentencing Guidelines (February 1997).  
*USSC OnLine; SC-Request; RDL.*

In this study, more than 1,700 citizens throughout the United States provided their opinions on punishment and crime seriousness issues. This first-ever survey of public attitudes toward federal sentences used a series of crime “vignettes” incorporating relevant offense and offender characteristics. These vignettes were presented at personal interviews and respondents were asked to record what they considered to be a “just” and appropriate sentence in each case. This staff paper describes the survey and its methodology, and compares public perceptions with the corresponding sentencing guideline ranges for four selected federal offenses: drug trafficking, bank robbery, immigration offenses, and fraud.

Guideline Sentencing: Determining “Loss” in §§2B1.1 (Theft) and 2F1.1 (Fraud) (April 9, 1997).  
*USSC OnLine.*

In regard to theft and fraud, this document examines “loss” issues such as definitions, actual damages, consequential damages, gain, intended loss, risk of loss, and diversion of government benefits.

Rules of Practice and Procedure, 62 Fed. Reg. 38598 (July 18, 1997).  
*SC-Request; RDL.*

This is a notice of the establishment of Sentencing Commission rules of practice and procedure relating to the manner in which it conducts its business.

Substantial Assistance: An Empirical Yardstick Gauging Equity in Current Federal Policy and Practice (January 1998).  
*USSC OnLine; RDL.*

This exploratory research report examines the guidelines’ “substantial assistance” policy statement in light of the guidelines’ overall statutory goal of fair and honest sentencing. The study focused on whether different districts’ policies and procedures were consistent and whether similar defendants were receiving similar sentence reductions for providing similar assistance. The report explores the policies and procedures across judicial districts and analyzes the factors associated with substantial assistance reductions and the magnitude of the departures. Research methodologies include site visits to eight federal judicial districts, surveys and interviews administered to U.S. attorney offices, and descriptive and multivariate data analyses.

The Year in Review: 1997-1998 (July 1998).  
*USSC OnLine; RDL.*

The report highlights the accomplishments of the Sentencing Commission during 1997-1998. The document describes recent achievements in such areas as policy development, resolution of circuit conflicts, guideline departures, responses to legislative initiatives, training and education, and research studies.

Probation and Supervised Release: Revocation and Other Issues  
(August 18, 1998).  
*USSC OnLine; RDL.*

On the topic of probation and supervised release, this paper looks at relevant key statutory provisions, applicable guidelines provisions (Chapter Seven of the *Guidelines Manual*), legal issues, reimposition of supervised release, delayed revocation, probation and supervised release imposed under the Assimilative Crimes Act.

Firearms: Selected Federal Statutes and Guideline Enhancements (October 6, 1998).  
*USSC OnLine.*

This document provides a general overview of key sentencing issues and case law arising from federal firearms statutes and various guideline provisions on firearm enhancements.

Report to the Judicial Conference of the United States (March 1999).  
*USSC OnLine.*

This brief report outlines U.S. Sentencing Commission activities and developments regarding (1) commissioner vacancies; (2) recent guideline amendments; (3) the ongoing work of the agency; and (4) the reported cases during the past fiscal year of 1998.

Report to the Judicial Conference of the United States (September 1999).  
*USSC OnLine; RDL.*

This brief report updates (1) developments regarding commissioner vacancies and (2) the ongoing work of the agency. Among topics discussed are briefing materials on guidelines policy options pertaining to legislation enacted by the 105<sup>th</sup> Congress.

Organizational Sentencing Guidelines Bibliography (March 2000).  
*USSC OnLine.*

This bibliography on the organizational sentencing guidelines is provided for general background information and public reference.

## United States Sentencing Commission

---

Loss Issues (May 26, 2000).  
*USSC OnLine*.

This document discusses issues raised about the definition of loss in case law. Topics examined include actual loss (*e.g.*, causation, consequential damages, interest, and value received) and alternatives to actual loss (*e.g.*, intended loss, gain, and risk of loss).

Supreme Court Cases and Circuit Conflicts.  
*SC-Request; RDL*.

These documents, updated periodically, summarize Supreme Court decisions along with circuit conflicts in cases involving the Commission, the federal sentencing guidelines, and other related issues. Tables are presented that illustrate circuit conflicts that have been addressed by Commission amendment and those that are ongoing.

GuideLines: News from the U.S. Sentencing Commission.  
*USSC OnLine; SC-Request; RDL*.

*GuideLines*, the Commission's periodic newsletter, appears time to time with information on current Commission activities, research findings, proposed guideline amendments, training opportunities, and guideline application and legal issues.

Worksheets. (To be used in conjunction with the *Guidelines Manual*)  
*USSC OnLine; SC-Request; RDL*.

**Individual:** Worksheets A-D take the user step-by-step through application of the sentencing guidelines for individual defendants.

**Organizations:** Similar to the individual worksheets, Worksheets A-D take the user step-by-step through application of the sentencing guidelines for organizational defendants.

**Probation/supervised release violation:** This document assists the user with application of the Commission's policy statements on supervision violations.

An Overview of the U.S. Sentencing Commission.  
*USSC OnLine; SC-Request*.

This brochure briefly discusses the history of the sentencing guidelines, how the sentencing guidelines work, innovations under the guidelines system, the organization of the Sentencing Commission, and the Commission's functions. A student version of the brochure is also available.

An Overview of the Federal Sentencing Guidelines.  
*USSC OnLine; SC-Request*.

This document offers a brief description of the U.S. sentencing guidelines and how they operate. The characterizations of the guidelines in this overview are presented in simplified form and are not to be used for guideline interpretation, application, or authority.

## Commission Data

The Sentencing Commission systematically collects and publishes data on the sentencing process and conducts special studies on sentencing-related issues. To ensure confidentiality of respondents and sites, open-ended interview data from the evaluation implementation study will be made available for on-site inspection only. **Pursuant to the policy on public access to Sentencing Commission documents and data (54 Fed. Reg. 51279 (12/13/89)), all case and defendant identifiers have been removed from the data.**

Commission datasets are distributed online by the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan. The codebook provided with each dataset discusses in detail other criteria that describe cases included in the data. Datasets are available via the following Internet address:  
<http://www.ICPSR.umich.edu/NACJD/archive.html>

**For more information, contact Dr. Christopher S. Dunn, ICPSR, P.O. Box 1248, Ann Arbor, MI 48106.** Online, you may direct questions about data to [nacjd@icpsr.umich.edu](mailto:nacjd@icpsr.umich.edu). You may contact the ICPSR using the toll-free help line, 1-800-999-0960 or dial (734) 998-9900 for assistance.

---

## Monitoring Datasets

Datasets described in this section contain data on federal criminal cases sentenced under the guidelines. Each federal court is required to forward to the Commission several documents on each case sentenced under the guidelines (except petty offenses) including the indictment(s), the presentence report (PSR), the judgment of conviction (J&C), any written plea agreement, a report on the sentencing hearing, any modification of sentence, and any revocation of probation and supervised release.

The Commission's staff enters pertinent information from the documents into its data collection system. This system identifies the status of documents in the file, assigns a unique identification number, and collects information necessary to determine the applicability of the case. Cases sentenced under "old law," cases in which courts held the guidelines unconstitutional (prior to *Mistretta*), and those involving solely petty offenses are not captured in these datasets.

The prospective nature of the Sentencing Reform Act, coupled with constitutional challenges to the Act, resulted in only 17.9 percent of all federal criminal defendants sentenced in 1988 being sentenced under the guidelines. These proportions have increased yearly and are reflected in the increasing number of cases available in the Commission's annual Monitoring datasets.

Dataset entries are made on a per defendant/per sentencing basis (*i.e.*, each case is a consolidated sentencing of a single defendant). Multiple counts and multiple indictments constitute a consolidated sentencing if the defendants were sentenced at the same time and if a single PSR (and thus guideline range) is produced. Defendants may appear in more

than one case in the dataset if they are involved in more than one consolidated sentencing. Multiple codefendants in the same consolidated sentencing will each appear as a separate case in the dataset.

Expansion of the Monitoring data collection system has resulted in additional data elements being made available each year. The earliest datasets primarily contain matched data from the Federal Probation Sentencing and Supervision Information System (FPSSIS) datafile of the Administrative Office of the U.S. Courts and sentence information collected from J&C orders submitted by the courts. In 1990, basic guideline application information was collected and included in subsequent datasets. In addition, the data collection system was expanded to compensate for the elimination of the sentencing portion of the FPSSIS data collection system in August 1990. In 1991, data collection and files were upgraded to include in-depth guideline application information as well as additional elements to supplement losses from the FPSSIS system. In 1992, additional elements such as drug type were added to the automated files. In 1996, drug amount, type of defense counsel, and amount of loss were added.

In 1995, the Commission released the Appeals dataset, which tracks appellate review of sentencing decisions.

USSC.88 (Monitoring dataset for calendar year 1988).  
*ICPSR*.

This dataset includes 6,223 cases received by the Sentencing Commission as of November 8, 1989, that were sentenced between November 1, 1987, and December 31, 1988 (inclusive).

Information available in this dataset includes data elements from the FPSSIS file of the Administrative Office of the U.S. Courts and sentence information collected from the J&C submitted by the court.

USSC.89-H (Monitoring dataset for first six months of calendar year 1989).  
*ICPSR*.

This dataset includes 9,360 cases received by the Sentencing Commission as of November 8, 1989, that were sentenced between January 1 and June 30, 1989 (inclusive).

Information available in this dataset includes data elements from the FPSSIS file of the Administrative Office of the U.S. Courts and sentence information collected from the J&C submitted by the court.

## **United States Sentencing Commission**

---

USSC.89 (Monitoring dataset for calendar year 1989).  
*ICPSR*.



This dataset includes 22,676 cases received by the Sentencing Commission as of February 28, 1990, that were sentenced between January 19, 1989, and December 31, 1989 (inclusive).

Information available in this dataset includes data elements from the FPSSIS file of the Administrative Office of the U.S. Courts and sentence information collected from the J&C submitted by the court.

USSC.FY90 (Monitoring dataset for fiscal year 1990).  
*ICPSR*.

This dataset includes 29,011 cases received by the Sentencing Commission as of December 28, 1990, that were sentenced between October 1, 1989, and September 30, 1990 (inclusive).

Information available in this dataset includes data elements from the FPSSIS file of the Administrative Office of the U.S. Courts, sentence information collected from the J&C submitted by the court, and basic guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY91 (Monitoring dataset for fiscal year 1991).  
*ICPSR*.

This dataset includes 33,419 cases received by the Sentencing Commission as of January 17, 1992, that were sentenced between October 1, 1990, and September 30, 1991 (inclusive).

This dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY92 (Monitoring dataset for fiscal year 1992).  
*ICPSR*.

This dataset includes 38,258 cases received by the Sentencing Commission as of January 26, 1993, that were sentenced between October 1, 1991, and September 30, 1992 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY93 (Monitoring dataset for fiscal year 1993).  
*ICPSR*.

## **United States Sentencing Commission**

---

This dataset includes 42,107 cases received by the Sentencing Commission as of January 11, 1994, that were sentenced between October 1, 1992, and September 30, 1993 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY94 (Monitoring dataset for fiscal year 1994).  
*ICPSR.*

This dataset includes 39,971 cases received by the Sentencing Commission as of December 23, 1994, that were sentenced between October 1, 1993, and September 30, 1994 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY95 (Monitoring dataset for fiscal year 1995).  
*ICPSR.*

This dataset includes 38,500 cases received by the Sentencing Commission as of December 26, 1995, that were sentenced between October 1, 1994, and September 30, 1995 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY96 (Monitoring dataset for fiscal year 1996).  
*ICPSR.*

This dataset includes 42,439 cases received by the Sentencing Commission as of December 27, 1996, that were sentenced between October 1, 1995, and September 30, 1996 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY97 (Monitoring dataset for fiscal year 1997).  
*ICPSR*.

This dataset includes 48,848 cases received by the Sentencing Commission as of January 31, 1998, that were sentenced between October 1, 1996, and September 30, 1997 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY98 (Monitoring dataset for fiscal year 1998).  
*ICPSR*.

This dataset includes 50,754 cases received by the Sentencing Commission as of February 22, 1999, that were sentenced between October 1, 1997, and September 30, 1998 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

USSC.FY99 (Monitoring dataset for fiscal year 1999).  
*ICPSR*.

This dataset includes 55,557 cases received by the Sentencing Commission as of February 11, 2000, that were sentenced between October 1, 1998, and September 30, 1999 (inclusive).

Information available in this dataset includes sentence information collected from the J&C submitted by the court, background information collected from the PSR, and in-depth guideline information collected from the PSR and the report on the sentencing hearing.

Federal Sentencing Statistics by District and Circuit (1996, 1997, 1998, 1999).  
*USSC OnLine*.

This set of tables provides district, circuit, and national data on primary offense category, mode of conviction, type of sentence, average length of imprisonment, departure rates, and incarceration rates of defendants eligible for non-prison sentences.

USSC.ORGSA93 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes 50 cases in which organizational defendants were sentenced under the Chapter Eight guidelines during the period

## **United States Sentencing Commission**

---

November 1, 1991, to September 30, 1993, and 50 antitrust cases sentenced under the fine provisions of §2R1.1 during the period November 1, 1987, to September 30, 1993. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN94 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes 86 cases in which organizational defendants were sentenced under the Chapter Eight guidelines and 18 cases in which organizational defendants were sentenced under the fine provisions of §2R1.1 (1987) during the period October 1, 1993, through September 30, 1994. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN95 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes 111 cases in which organizational defendants were sentenced under the Chapter Eight guidelines and four cases in which organizational defendants were sentenced under the fine provisions of §2R1.1 (1987) during the period October 1, 1994, through September 30, 1995; and were received by the Commission by December 26, 1995. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN96 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes 148 cases in which organizational defendants were sentenced under the Chapter Eight guidelines plus seven cases in which organizational defendants were sentenced under the fine provisions of §2R1.1 (1987) during the period October 1, 1995, through September 30, 1996; and were received by the Commission by December 27, 1996. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN97 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes 220 cases in which organizational defendants were sentenced under the Chapter Eight guidelines plus cases in which organizational defendants were sentenced under the fine provisions of §2R1.1 (1987) during the period October 1, 1996, through September 30, 1997; and were received by the Commission by January 31, 1998.

The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN98 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes cases in which 218 organizational defendants were sentenced under the Chapter Eight guidelines plus cases in which organizational defendants were sentenced under the fine provisions of §2R1.1 (1987) during the period October 1, 1997, through September 30, 1998. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.ORGSAN99 (Organizational defendant dataset).  
*ICPSR*.

This dataset includes cases in which 255 organizational defendants were sentenced under the Chapter Eight guidelines during the period October 1, 1998, through September 30, 1999. The module captures information describing organizational structure, size, and economic viability; offense of conviction; mode of adjudication; sanctions imposed; and application of the sentencing guidelines.

USSC.APPEAL93 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,078 appellants whose cases were filed March 9, 1990, through September 30, 1993, and were received by the Commission by December 22, 1993. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL94 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,745 appellants whose cases were filed October 1, 1993, through September 30, 1994, and were received by the Commission by December 22, 1994. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL95 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,863 appellants whose cases were filed

## **United States Sentencing Commission**

---

October 1, 1994, through September 30, 1995, and were received by the Commission by December 26, 1995. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL96 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,710 appellants whose cases were filed October 1, 1995, through September 30, 1996, and were received by the Commission by December 27, 1996. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL97 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,496 appellants whose cases were filed October 1, 1996, through September 30, 1997, and were received by the Commission by January 31, 1998. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL98 (Appeals dataset).  
*ICPSR*.

This dataset includes 6,387 appellants whose cases were filed October 1, 1997, through September 30, 1998, and were received by the Commission by February 22, 1999. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

USSC.APPEAL99 (Appeals dataset).  
*ICPSR*.

This dataset includes 7,103 appellants whose cases were filed October 1, 1998, through September 30, 1999, and were received by the Commission by February 11, 2000. Information captured in the module includes district, circuit, date of appeal, date of opinion, legal issues before the court, and the court's disposition.

## **Historical Datasets**

---

Augmented FPSSIS Fiscal Year 1985 Convictions Dataset (July 1991).  
*ICPSR*.

The sentencing and related data in this collection were gathered from a stratified random sample of defendants convicted in U.S. district courts during fiscal year 1985. The

Administrative Office of the U.S. Courts' Federal Probation Sentencing and Supervision Information System (FPSSIS) file was the primary source of these data. The data include a description of the offense, a characterization of the defendant's background and criminal record, the method of disposition of the case, and the sentence imposed. Felony and misdemeanor cases are included, while petty offense cases are not.

Three types of additional information augment the existing FPSSIS data: (1) more detailed offense and offender characteristics identified by the Sentencing Commission and coded by federal probation officers; (2) actual time served in prison and projected time served from the SENTRY datafile of the U.S. Bureau of Prisons; and (3) information necessary to estimate prospective release dates from the hearing files of the U.S. Parole Commission.

The Commission collected these data during the development of the initial sentencing guidelines. Analyses of the data represented a study of past sentencing practices that proved important in the drafting of the guidelines as well as an assessment of prospective guidelines' impact on sentencing practices and prison populations.

This dataset consists of four separate files of 10,570 individuals (drug offenses dataset, n=2,879; street crimes dataset, n=2,756; white collar crimes dataset, n=2,815; other offenses, n=2,210) sentenced for serious misdemeanor or felony offenses between October 1, 1984, and September 30, 1985. **Pursuant to the policy on public access to Sentencing Commission documents and data (54 Fed. Reg. 51279, 12/13/89), all case and defendant identifiers have been removed from the data.**

## Special Study Datasets

---

Organizations Sentenced in Federal Courts, 1988, and Organizations Sentenced in Federal Courts, 1989-90.  
*ICPSR.*

To support the development of the Chapter Eight guidelines, the Commission conducted two studies of sentencing practices for organizational defendants in federal district courts. Dataset analyses from the two studies are included in the Commission's *Supplementary Report on Sentencing Guidelines for Organizations*.

The data include information on (1) organizational defendants sentenced from January 1 through December 31, 1988 (n=328) and (2) organizational defendants sentenced from January 1, 1989, through June 30, 1990 (n=446). For each of these studies, relevant information was extracted from presentence investigation reports, charging documents, and judgment of conviction orders.

Mandatory Minimum Study Sample Dataset, 1989-90.  
*ICPSR.*

## United States Sentencing Commission

---

Pursuant to a congressional directive, the Sentencing Commission completed a study of federal mandatory minimum statutes. As part of this endeavor, a sample of the Commission's fiscal 1990 data release was augmented by a special coding project. This project was intended to supplement the normal data collection activities of the Commission with information specific to the application and effect of mandatory minimum statutes on the guidelines and the federal criminal justice system. In particular, the sample dataset was developed to supplement the FPSSIS<sup>1</sup> and Commission monitoring data<sup>2</sup> with pertinent preconviction information and to allow for a procedural tracking of cases and application of mandatory minimum provisions at various stages of the criminal justice process.

A 12.5 percent random sample was selected from the 29,011 MONFY90 cases. Initial computer screening identified 2,210 relevant sample cases qualifying due to the presence of drugs in the offense, drugs and weapons, or robbery with weapons. A study of these cases yielded a sample of 1,165 cases, representing defendants for whom the offense behavior indicated the appropriateness of mandatory minimum penalties. A coding system developed for analysis of these cases incorporated case eligibility for mandatory minimum charges (*e.g.*, the amount of drug by type sufficient to invoke 21 U.S.C. § 841(b)(1)(A) or requirements satisfying the "using or carrying" firearm provision of 18 U.S.C. § 924(c)). A conservative interpretation of the legal criteria minimized the chance of inclusion for cases not clearly mandatory in their offense behavior. Information coded on these 1,165 defendants included real offense behavior, indictment history, mode of conviction, convicted charges, sentences imposed, plea agreements, stipulations, and guideline factors.

### 1991 Evaluation Study.

The datasets identified below were used to prepare *The Federal Sentencing Guidelines: A Report on the Operation of the Guidelines System and Short-Term Impacts on Disparity in Sentencing, Use of Incarceration, and Prosecutorial Discretion and Plea Bargaining*, submitted to Congress and the GAO in December 1991:

### 1991 Evaluation Study: National Survey Data. *ICPSR.*

The data in this collection are from a national survey of judges and court practitioners developed in response to issues raised during site visits for the implementation study.

---

<sup>1</sup> The FPSSIS data used for the mandatory minimum study include all 267,178 cases sentenced between January 1, 1984, and June 30, 1990. FPSSIS data were used to identify the sample by distinguishing the underlying conduct in a given case as potentially involving mandatory minimum behavior. To classify cases, the data used were the total pure amount of drugs and presence of a weapon.

<sup>2</sup> These data include the Commission's monitoring dataset for the fiscal year 1990 (MONFY90), with 29,011 defendants sentenced between October 1, 1989, and September 30, 1990.



This national mail survey sample consisted of all federal district judges, public defenders, a random sample of assistant U.S. attorneys engaged in criminal work, federal panel attorneys, and federal probation officers preparing presentence reports or conducting the investigation for those reports. Sixty percent of the surveys were returned completed (1,802 out of 2,998 sampled).

1991 Evaluation Study: Disparity Data.  
*ICPSR.*

Four disparity datasets, each representing one of four major offense types (bank robbery, cocaine distribution, heroin distribution, and bank embezzlement) drew data for this study from the FPSSIS dataset, an augmented FPSSIS dataset constructed by the Commission representing offenders sentenced in 1985, the Commission's guidelines sentence monitoring system, the Federal Bureau of Prisons, and the U.S. Parole Commission. The dataset available through ICPSR represents data expanded beyond what was available for the evaluation study and includes demographic variables not coded at the time of the evaluation. The datasets contain information on preguideline defendants sentenced during fiscal year 1985 (October 1, 1984 - September 30, 1985) and were compiled to assist the Commission in developing the initial guidelines. These data came predominantly from the Administrative Office of the U.S. Courts but were augmented by a special Commission data collection. Because constitutional challenges to the guidelines delayed nationwide implementation for 15 months, fewer guideline cases were available for analysis than originally anticipated. Therefore, to increase the sample size, guideline datasets for bank robbery, bank embezzlement, and heroin distribution offenses cover more than one fiscal year (*e.g.*, offenders sentenced between January 19, 1989, and September 30, 1990).

The cocaine dataset includes additional variables not found in the other three disparity datasets that indicate type and amount of drugs. The Anti-Drug Abuse Act of 1986 (ADAA86), in setting equivalencies for various types and amounts of drugs, established different equivalencies for powder cocaine and cocaine base. Data available through FPSSIS do not distinguish between powder cocaine and cocaine base (crack). The guidelines incorporated the statutory equivalencies by equating one unit of cocaine base to 100 units of cocaine powder (see guideline 2D1.1). The Commission undertook a special data collection effort that produced a file identifying the particular type of cocaine. Consequently, the cocaine dataset covers a much shorter time frame, from September to December 1990. The Commission's augmented FPSSIS data serve as the preguidelines source for the sample of cocaine distribution cases.

Cases in each of the four datasets represent single counts of conviction or multiple counts that generally would not enhance either the preguidelines or guidelines sentence. The bank embezzlement dataset contains 1,143 cases (536 preguidelines and 607 guidelines); the bank robbery sample 1,372 cases (502 preguidelines and 870 guidelines); the heroin distribution sample 1,454 cases (530 preguidelines and 924 guidelines); and the cocaine distribution sample 1,710 cases (328 preguidelines and 1,382 guidelines).

1991 Evaluation Study: Time Series Data.  
*ICPSR.*

## United States Sentencing Commission

---

The data in this collection represent two separate studies designed to assess the impact of the sentencing guidelines. The first is a use of incarceration study, which includes data on the incarcerative and non-incarcerative sentences imposed and the average length of expected time to be served in incarceration for all offenses as well as for select groups of offenses. The second is a prosecutorial discretion and plea bargaining study, which includes data on the numbers of matters initiated, cases filed, and cases disposed of by guilty plea and trial.

Both studies reflect monthly time series before and after the implementation of the guidelines in November 1987. FPSSIS files from the Administrative Office of the U.S. Courts defined the universe of observations for the study on use of incarceration. FPSSIS records have been matched with data from the Sentencing Commission's Monitoring dataset, the Federal Bureau of Prisons, and the U.S. Parole Commission to obtain the relevant variables to compute the outcome variable "expected time to be served." Individual sentence records in each of the datasets have been merged into one dataset. Data on use of incarceration reflect monthly time series covering the period from 1984 to 1990.

The monthly time series measurements for the prosecutorial discretion and plea bargaining study cover the period from 1984 to 1990. These monthly time series have been constructed from two datasets maintained by the Executive Office for U.S. Attorneys: (1) Docket and Reporting System for Fiscal Years 1984-1986, and (2) Criminal Master File with Auxiliary Events and Charge Files (referred to as the new data system) for fiscal years 1987-1990. These datasets contain processing information about matters initiated, cases filed, and cases resolved in U.S. attorney offices in each federal district.

### 1991 Evaluation Study: Implementation Study Interviews. *SC-Inspect.*

This is a hard copy of implementation study interviews with judges, probation officers, assistant U.S. attorneys, federal defenders, private counsel, and federal court clerks.

